

Union Calendar No. 341

104TH CONGRESS
2D Session

H. R. 1975

[Report No. 104-667]

A BILL

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

JULY 11, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Union Calendar No. 341

104TH CONGRESS
2D SESSION

H. R. 1975

[Report No. 104-667]

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1995

Mr. CALVERT (for himself, Mr. BREWSTER, Mr. DOOLEY, Mr. TAUZIN, and Mr. LUCAS) introduced the following bill; which was referred to the Committee on Resources

JULY 11, 1996

Additional sponsors: Mr. CREMEANS, Mr. THORNBERRY, Mr. ORTIZ, Mr. RADANOVICH, Mr. HAYES, and Mr. EHRLICH

JULY 11, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 30, 1995]

A BILL

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Federal Oil and Gas*
5 *Royalty Simplification and Fairness Act of 1996”.*

6 **SEC. 2. DEFINITIONS.**

7 *Section 3 of the Federal Oil and Gas Royalty Manage-*
8 *ment Act of 1982 (30 U.S.C. 1701 et seq.) is amended—*

9 *(1) by amending paragraph (7) to read as fol-*
10 *lows:*

11 *“(7) ‘lessee’ means any person to whom the*
12 *United States issues an oil and gas lease or any per-*
13 *son to whom operating rights in a lease have been as-*
14 *signed;”; and*

15 *(2) by striking “and” at the end of paragraph*
16 *(15), by striking the period at the end of paragraph*
17 *(16) and inserting a semicolon, and by adding at the*
18 *end the following:*

19 *“(17) ‘adjustment’ means an amendment to a*
20 *previously filed report on an obligation, and any ad-*
21 *ditional payment or credit, if any, applicable thereto,*
22 *to rectify an underpayment or overpayment on an ob-*
23 *ligation;*

24 *“(18) ‘administrative proceeding’ means any De-*
25 *partment of the Interior agency process in which a*

1 *demand, decision or order issued by the Secretary or*
2 *a delegated State is subject to appeal or has been ap-*
3 *pealed;*

4 “(19) ‘assessment’ means any fee or charge levied
5 *or imposed by the Secretary or a delegated State other*
6 *than—*

7 “(A) *the principal amount of any royalty,*
8 *minimum royalty, rental, bonus, net profit share*
9 *or proceed of sale;*

10 “(B) *any interest; or*

11 “(C) *any civil or criminal penalty;*

12 “(20) ‘commence’ means—

13 “(A) *with respect to a judicial proceeding,*
14 *the service of a complaint, petition, counter-*
15 *claim, crossclaim, or other pleading seeking af-*
16 *firmative relief or seeking credit or recoupment:*
17 *Provided, That if the Secretary commences a ju-*
18 *dicial proceeding against a designee, the Sec-*
19 *retary shall give notice of that commencement to*
20 *the lessee who designated the designee, but the*
21 *Secretary is not required to give notice to other*
22 *lessees who may be liable pursuant to section*
23 *102(a) of this Act, for the obligation that is the*
24 *subject of the judicial proceeding; or*

1 “(B) with respect to a demand, the receipt
2 by the Secretary or a delegated State or a lessee
3 or its designee (with written notice to the lessee
4 who designated the designee) of the demand;

5 “(21) ‘credit’ means the application of an over-
6 payment (in whole or in part) against an obligation
7 which has become due to discharge, cancel or reduce
8 the obligation;

9 “(22) ‘demand’ means—

10 “(A) an order to pay issued by the Sec-
11 retary or the applicable delegated State to a les-
12 see or its designee (with written notice to the les-
13 see who designated the designee) that has a rea-
14 sonable basis to conclude that the obligation in
15 the amount of the demand is due and owing; or

16 “(B) a separate written request by a lessee
17 or its designee which asserts an obligation due
18 the lessee or its designee that provides a reason-
19 able basis to conclude that the obligation in the
20 amount of the demand is due and owing, but
21 does not mean any royalty or production report,
22 or any information contained therein, required
23 by the Secretary or a delegated State;

24 “(23) ‘designee’ means the person designated by
25 a lessee pursuant to section 102(a) of this Act, with

1 *such written designation effective on the date such*
 2 *designation is received by the Secretary and remain-*
 3 *ing in effect until the Secretary receives notice in*
 4 *writing that the designation is modified or termi-*
 5 *nated;*

6 “(24) ‘obligation’ means—

7 “(A) any duty of the Secretary or, if appli-
 8 cable, a delegated State—

9 “(i) to take oil or gas royalty in kind;
 10 or

11 “(ii) to pay, refund, offset, or credit
 12 monies including (but not limited to)—

13 “(I) the principal amount of any
 14 royalty, minimum royalty, rental,
 15 bonus, net profit share or proceed of
 16 sale; or

17 “(II) any interest; and

18 “(B) any duty of a lessee or its designee
 19 (subject to the provisions of section 102(a) of this
 20 Act)—

21 “(i) to deliver oil or gas royalty in
 22 kind; or

23 “(ii) to pay, offset or credit monies in-
 24 cluding (but not limited to)—

1 “(I) the principal amount of any
2 royalty, minimum royalty, rental,
3 bonus, net profit share or proceed of
4 sale;

5 “(II) any interest;

6 “(III) any penalty; or

7 “(IV) any assessment,
8 which arises from or relates to any lease ad-
9 ministered by the Secretary for, or any
10 mineral leasing law related to, the explo-
11 ration, production and development of oil
12 or gas on Federal lands or the Outer Con-
13 tinental Shelf;

14 “(25) ‘order to pay’ means a written order is-
15 sued by the Secretary or the applicable delegated
16 State to a lessee or its designee (with notice to the les-
17 see who designated the designee) which—

18 “(A) asserts a specific, definite, and quan-
19 tified obligation claimed to be due, and

20 “(B) specifically identifies the obligation by
21 lease, production month and monetary amount
22 of such obligation claimed to be due and ordered
23 to be paid, as well as the reason or reasons such
24 obligation is claimed to be due, but such term
25 does not include any other communication or ac-

1 *tion by or on behalf of the Secretary or a dele-*
2 *gated State;*

3 “(26) ‘overpayment’ means any payment by a
4 *lessee or its designee in excess of an amount legally*
5 *required to be paid on an obligation and includes the*
6 *portion of any estimated payment for a production*
7 *month that is in excess of the royalties due for that*
8 *month;*

9 “(27) ‘payment’ means satisfaction, in whole or
10 *in part, of an obligation;*

11 “(28) ‘penalty’ means a statutorily authorized
12 *civil fine levied or imposed for a violation of this Act,*
13 *any mineral leasing law, or a term or provision of*
14 *a lease administered by the Secretary;*

15 “(29) ‘refund’ means the return of an overpay-
16 *ment by the drawing of funds from the United States*
17 *Treasury;*

18 “(30) ‘State concerned’ means, with respect to a
19 *lease, a State which receives a portion of royalties or*
20 *other payments under the mineral leasing laws from*
21 *such lease;*

22 “(31) ‘underpayment’ means any payment or
23 *nonpayment by a lessee or its designee that is less*
24 *than the amount legally required to be paid on an ob-*
25 *ligation; and*

1 “(32) ‘United States’ means the United States
 2 Government and any department, agency, or instru-
 3 mentality thereof, the several States, the District of
 4 Columbia, and the territories of the United States.”.

5 **SEC. 3. DELEGATION OF ROYALTY COLLECTIONS AND RE-**
 6 **LATED ACTIVITIES.**

7 (a) *GENERAL AUTHORITY.*—Section 205 of the Federal
 8 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
 9 1735) is amended to read as follows:

10 **“SEC. 205. DELEGATION OF ROYALTY COLLECTIONS AND**
 11 **RELATED ACTIVITIES.**

12 “(a) *STATE PROPOSAL.*—A State may submit to the
 13 Secretary a proposal to perform and enforce all or part of
 14 the authorities and responsibilities of the Secretary under
 15 this Act to conduct and enforce royalty collections and relat-
 16 ed activities, including audits, inspections, investigations,
 17 production and financial reports, correction of erroneous re-
 18 port data, automated verification, demands, subpoenas, or-
 19 ders to perform restructured accounting (as defined in this
 20 Act), production accountability, with respect to all Federal
 21 leases within that State.

22 “(b) *DEMONSTRATION OF STATE ABILITY.*—In the
 23 proposal under subsection (a), the State shall demonstrate
 24 the following:

1 “(1) *It is likely that the State will provide ade-*
2 *quate resources to achieve the purposes of this Act.*

3 “(2) *The State has demonstrated that it will ef-*
4 *fectively and faithfully administer the rules and regu-*
5 *lations of the Secretary under this Act in accordance*
6 *with the requirements or subsection (c).*

7 “(3) *Such delegation will not create an unrea-*
8 *sonable burden on the lessees within the State.*

9 “(4) *The State agrees to adopt standardized re-*
10 *porting procedures prescribed by the Secretary, unless*
11 *the State and all affected parties otherwise agree.*

12 “(5) *The State agrees to follow and adhere to*
13 *regulations issued pursuant to the mineral leasing*
14 *laws regarding valuation of production.*

15 “(6) *The State has enacted laws and promul-*
16 *gated regulations consistent with relevant Federal*
17 *laws and regulations.*

18 “(7) *The State has shown that delegation of the*
19 *authorities and responsibilities under this Act will re-*
20 *sult in a cost-savings to the United States.*

21 “(c) *REGULATIONS.—After consultation with the*
22 *States concerned, the Secretary shall by rule promulgate*
23 *standards within 18 months after the date of enactment of*
24 *this section pertaining to authorities and responsibilities*
25 *under subsection (a), including standards pertaining to the*

1 *royalty collections and related activities enumerated in sub-*
 2 *section (a). Such standards shall be designed to provide rea-*
 3 *sonable assurance that uniformity and effectiveness will*
 4 *prevail among the States, that State participation will*
 5 *ensue in the development of procedures and policies affect-*
 6 *ing the delegated activity, and that reasonable flexibility*
 7 *will be provided to a State to perform any delegated author-*
 8 *ity or responsibility in a more efficient and cost-effective*
 9 *manner. The records and accounts maintained pursuant to*
 10 *such regulations shall be sufficient to allow the Secretary*
 11 *to monitor the performance of any State under this section.*
 12 *Such standards shall, to the maximum extent possible, pre-*
 13 *vent duplication by the Secretary of any activity delegated*
 14 *to a State for all Federal land within a State.*

15 “(d) *DELEGATION.*—

16 “(1) *PRELIMINARY APPROVAL OR DISAPPROVAL*
 17 *BY SECRETARY.*—

18 “(A) *REVIEW.*—*The Secretary shall review*
 19 *a State’s proposal as to the consistency of such*
 20 *proposal with subsections (b) and (c) and regula-*
 21 *tions under subsection (c).*

22 “(B) *DECISION.*—*The Secretary shall issue*
 23 *a preliminary approval or disapproval as to the*
 24 *consistency of a State’s proposal with subsections*
 25 *(b) and (c) and regulations under subsection (c)*

1 *within six months after submission of such pro-*
2 *posal. If the Secretary disapproves any State*
3 *proposal in whole or in part, he shall notify the*
4 *State in writing of his decision and set forth in*
5 *detail the reasons therefore and state whether he*
6 *will agree to delegate to the State if the State*
7 *meets the conditions set forth in the disapproval.*

8 “(C) *RESUBMISSION.*—*The State shall have*
9 *60 days in which to resubmit a revised State*
10 *proposal or portion thereof. The Secretary shall*
11 *approve or disapprove the resubmitted State pro-*
12 *posal or portion thereof within 60 days from the*
13 *date of resubmission.*

14 “(2) *DELEGATION.*—*After notice and oppor-*
15 *tunity for a public hearing, if the Secretary deter-*
16 *mines that a State has satisfied the conditions con-*
17 *tained in a preliminary ruling and approves the*
18 *State’s proposal, the State shall assume and perform*
19 *such activities and responsibilities pursuant to such*
20 *approval. The provisions for delegation shall be set*
21 *forth in a delegation agreement between the Secretary*
22 *and the State within 90 days after the notice and*
23 *hearing. The agreement may be amended from time*
24 *to time to take into account new standards and proce-*
25 *dures affecting the delegated activity. Under any such*

1 *agreement, the Secretary and the State shall share oil*
2 *or gas information.*

3 “(3) *FEDERAL INTERVENTION; WITHDRAWAL OF*
4 *AUTHORITY.—*

5 “(A) *SECRETARIAL INTERVENTION.—If after*
6 *providing written notice to a delegated State*
7 *(with a copy to the lessee or its designee) and a*
8 *reasonable opportunity to take corrective action*
9 *requested by the Secretary, the Secretary deter-*
10 *mines that the State has failed to issue a de-*
11 *mand or order to a Federal lessee within the*
12 *State, that such failure will result in an under-*
13 *payment of an obligation due the United States*
14 *by such lessee, and that such underpayment will*
15 *be uncollected without Secretarial intervention,*
16 *the Secretary may issue such demand or order in*
17 *accordance with the provisions of this Act prior*
18 *to or absent the withdrawal of the delegated ac-*
19 *tivity.*

20 “(B) *WITHDRAWAL OF DELEGATED ACTIV-*
21 *ITY.—Whenever the Secretary determines after*
22 *public hearing that a State is not performing the*
23 *delegated activity authorized under this section*
24 *in accordance with requirements of this section,*
25 *the Secretary shall provide written notice, to-*

1 *gether with the reasons therefor, to the State and,*
 2 *if corrective action is not taken within a reason-*
 3 *able time, not to exceed 90 days, the Secretary*
 4 *shall withdraw authorization of such delegated*
 5 *activity and take the necessary actions to admin-*
 6 *ister and enforce such withdrawn activity.*

7 “(4) *COURT ACTION.*—*The State may bring an*
 8 *action in the Federal district court in a judicial dis-*
 9 *trict in which a portion of the State is located if—*

10 “(A) *the Secretary does not agree to delegate*
 11 *the requested activities, or*

12 “(B) *the Secretary withdraws an activity*
 13 *under paragraph (3)(B).*

14 “(e) *SAVINGS PROVISION.*—*Any State operating pur-*
 15 *suant to a delegation existing on the date of enactment of*
 16 *this Act may continue to operate under the terms and con-*
 17 *ditions of the delegation, subject to the requirements of sub-*
 18 *section (i), except to the extent that a revision of the existing*
 19 *agreement is adopted pursuant to this section.*

20 “(f) *STATE ACTION.*—*With respect to enforcement of*
 21 *an obligation under this Act, a State bringing an action*
 22 *under this section shall enjoy no greater rights than the Sec-*
 23 *retary enjoys under this Act.*

24 “(g) *RECEIPTS.*—*The Secretary shall compensate any*
 25 *State for those costs which may be necessary to carry out*

1 *the delegated activities under this section. Payment shall*
2 *be made no less than every quarter during the fiscal year.*
3 *Compensation to a State shall not exceed the Secretary's*
4 *reasonably anticipated expenditure for performance of such*
5 *delegated activities by the Secretary. Such costs shall be al-*
6 *locable for the purposes of section 35(b) of the Act entitled*
7 *'An act to promote the mining of coal, phosphate, oil, oil*
8 *shale, gas and sodium on the public domain', approved Feb-*
9 *ruary 25, 1920 (commonly known as the Mineral Leasing*
10 *Act) (30 U.S.C. 191 (b)) to the administration and enforce-*
11 *ment of laws providing for the leasing of any onshore lands*
12 *or interests in land owned by the United States. The Sec-*
13 *retary shall compensate any State in the next succeeding*
14 *fiscal year for the aggregate amount of such costs incurred*
15 *but not compensated due to such allocation for the current*
16 *fiscal year. All moneys received from sales, bonuses, rentals,*
17 *royalties, assessments and interest, including money*
18 *claimed to be due and owing pursuant to a delegation under*
19 *this section, shall be payable and paid to the Treasury of*
20 *the United States. If a State's cost for actions taken under*
21 *a delegated activity is subject to such section 35(b), the Sec-*
22 *retary shall not charge the State under such section 35(b)*
23 *for the Secretary's costs for taking the same actions under*
24 *such activity."*

1 (b) *CLERICAL AMENDMENT.*—*The item relating to sec-*
 2 *tion 205 in the table of contents in section 1 of the Federal*
 3 *Oil and Gas Royalty Management Act of 1982 (30 U.S.C.*
 4 *1701) is amended to read as follows:*

“Sec. 205. Delegation of royalty collections and related activities.”.

5 **SEC. 4. SECRETARIAL AND DELEGATED STATES’ ACTIONS**
 6 **AND LIMITATION PERIODS.**

7 (a) *IN GENERAL.*—*The Federal Oil and Gas Royalty*
 8 *Management Act of 1982 (30 U.S.C. 1701 et seq.) is amend-*
 9 *ed by adding after section 114 the following new section:*
 10 **“SEC. 115. SECRETARIAL AND DELEGATED STATES’ AC-**
 11 **TIONS AND LIMITATION PERIODS.**

12 “(a) *IN GENERAL.*—*The respective duties, responsibil-*
 13 *ities, and activities with respect to a lease shall be per-*
 14 *formed by the Secretary, delegated States, and lessees or*
 15 *their designees in a timely manner.*

16 “(b) *LIMITATION PERIOD.*—

17 “(1) *IN GENERAL.*—*A judicial proceeding or de-*
 18 *mand which arises from, or relates to an obligation,*
 19 *shall be commenced within seven years from the date*
 20 *on which the obligation becomes due and if not so*
 21 *commenced shall be barred. If commencement of a ju-*
 22 *dicial proceeding or demand for an obligation is*
 23 *barred by this section, the Secretary, a delegated*
 24 *State, or a lessee or its designee (A) shall not take*

1 *any other or further action regarding that obligation,*
2 *including (but not limited to) the issuance of any*
3 *order, request, demand or other communication seek-*
4 *ing any document, accounting, determination, cal-*
5 *culatation, recalculation, payment, principal, interest,*
6 *assessment, or penalty or the initiation, pursuit or*
7 *completion of an audit with respect to that obligation;*
8 *and (B) shall not pursue any other equitable or legal*
9 *remedy, whether under statute or common law, with*
10 *respect to an action on or an enforcement of said obli-*
11 *gation.*

12 “(2) *RULE OF CONSTRUCTION.*—A judicial pro-
13 *ceeding or demand that is timely commenced under*
14 *paragraph (1) against a designee shall be considered*
15 *timely commenced as to any lessee who is liable pur-*
16 *suant to section 102(a) of this Act for the obligation*
17 *that is the subject of the judicial proceeding or de-*
18 *mand.*

19 “(3) *APPLICATION OF CERTAIN LIMITATIONS.*—
20 *The limitations set forth in sections 2401, 2415, 2416,*
21 *and 2462 of title 28, United States Code, and section*
22 *42 of the Mineral Leasing Act (30 U.S.C. 226–2)*
23 *shall not apply to any obligation to which this Act*
24 *applies. Section 3716 of title 31, United States Code,*
25 *may be applied to an obligation the enforcement of*

1 *which is not barred by this Act, but may not be ap-*
 2 *plied to any obligation the enforcement of which is*
 3 *barred by this Act.*

4 “(c) *OBLIGATION BECOMES DUE.*—

5 “(1) *IN GENERAL.*—*For purposes of this Act, an*
 6 *obligation becomes due when the right to enforce the*
 7 *obligation is fixed.*

8 “(2) *ROYALTY OBLIGATIONS.*—*The right to en-*
 9 *force any royalty obligation for any given production*
 10 *month for a lease is fixed for purposes of this Act on*
 11 *the last day of the calendar month following the*
 12 *month in which oil or gas is produced.*

13 “(d) *TOLLING OF LIMITATION PERIOD.*—*The running*
 14 *of the limitation period under subsection (b) shall not be*
 15 *suspended, tolled, extended, or enlarged for any obligation*
 16 *for any reason by any action, other than the following:*

17 “(1) *TOLLING AGREEMENT.*—*A written agree-*
 18 *ment executed during the limitation period between*
 19 *the Secretary or a delegated State and a lessee or its*
 20 *designee (with notice to the lessee who designated the*
 21 *designee) shall toll the limitation period for the*
 22 *amount of time during which the agreement is in ef-*
 23 *fect.*

24 “(2) *SUBPOENA.*—

1 “(A) *The issuance of a subpoena to a lessee*
2 *or its designee (with notice to the lessee who des-*
3 *ignated the designee, which notice shall not con-*
4 *stitute a subpoena to the lessee) in accordance*
5 *with the provisions of subparagraph (B)(i) shall*
6 *toll the limitation period with respect to the obli-*
7 *gation which is the subject of a subpoena only*
8 *for the period beginning on the date the lessee*
9 *or its designee receives the subpoena and ending*
10 *on the date on which (i) the lessee or its designee*
11 *has produced such subpoenaed records for the*
12 *subject obligation, (ii) the Secretary or a dele-*
13 *gated State receives written notice that the sub-*
14 *poenaed records for the subject obligation are not*
15 *in existence or are not in the lessee’s or its des-*
16 *ignee’s possession or control, or (iii) a court has*
17 *determined in a final decision that such records*
18 *are not required to be produced, whichever occurs*
19 *first.*

20 “(B)(i) *A subpoena for the purposes of this*
21 *section which requires a lessee or its designee to*
22 *produce records necessary to determine the prop-*
23 *er reporting and payment of an obligation due*
24 *the Secretary may be issued only by an Assistant*
25 *Secretary of the Interior or an Acting Assistant*

1 *Secretary of the Interior who is a schedule C em-*
2 *ployee (as defined by section 213.3301 of title 5,*
3 *Code of Federal Regulations), or the Director or*
4 *Acting Director of the respective bureau or agen-*
5 *cy, and may not be delegated to any other per-*
6 *son. If a State has been delegated authority pur-*
7 *suant to section 205, the State, acting through*
8 *the highest elected State official having ultimate*
9 *authority over the collection of royalties from*
10 *leases on Federal lands within the State, may*
11 *issue such subpoena, but may not delegate such*
12 *authority to any other person.*

13 *“(ii) A subpoena described in clause (i)*
14 *may only be issued against a lessee or its des-*
15 *ignee during the limitation period provided in*
16 *this section and only after the Secretary or a del-*
17 *egated State has in writing requested the records*
18 *from the lessee or its designee related to the obli-*
19 *gation which is the subject of the subpoena and*
20 *has determined that—*

21 *“(I) the lessee or its designee has failed*
22 *to respond within a reasonable period of*
23 *time to the Secretary’s or the applicable del-*
24 *egated State’s written request for such*
25 *records necessary for an audit, investigation*

1 *or other inquiry made in accordance with*
2 *the Secretary's or such delegated State's re-*
3 *sponsibilities under this Act; or*

4 *“(II) the lessee or its designee has in*
5 *writing denied the Secretary's or the appli-*
6 *cable delegated State's written request to*
7 *produce such records in the lessee's or its*
8 *designee's possession or control necessary for*
9 *an audit, investigation or other inquiry*
10 *made in accordance with the Secretary's or*
11 *such delegated State's responsibilities under*
12 *this Act; or*

13 *“(III) the lessee or its designee has un-*
14 *reasonably delayed in producing records*
15 *necessary for an audit, investigation or*
16 *other inquiry made in accordance with the*
17 *Secretary's or the applicable delegated*
18 *State's responsibilities under this Act after*
19 *the Secretary's or such delegated State's*
20 *written request.*

21 *“(C) In seeking records, the Secretary or the*
22 *applicable delegated State shall afford the lessee*
23 *or its designee a reasonable period of time after*
24 *a written request by the Secretary or such dele-*

1 gated State in which to provide such records
2 prior to the issuance of any subpoena.

3 “(3) *MISREPRESENTATION OR CONCEALMENT.*—
4 *The intentional misrepresentation or concealment of a*
5 *material fact for the purpose of evading the payment*
6 *of an obligation in which case the limitation period*
7 *shall be tolled for the period of such misrepresentation*
8 *or such concealment.*

9 “(4) *ORDER TO PERFORM A RESTRUCTURED AC-*
10 *COUNTING.*—(A)(i) *The issuance of a notice under*
11 *subparagraph (D) that the lessee or its designee has*
12 *not substantially complied with the requirement to*
13 *perform a restructured accounting shall toll the limi-*
14 *tation period with respect to the obligation which is*
15 *the subject of the notice only for the period beginning*
16 *on the date the lessee or its designee receives the notice*
17 *and ending 120 days after the date on which (I) the*
18 *Secretary or the applicable delegated State receives*
19 *written notice the accounting or other requirement*
20 *has been performed, or (II) a court has determined in*
21 *a final decision that the lessee is not required to per-*
22 *form the accounting, whichever occurs first.*

23 “(ii) *If the lessee or its designee initiates an ad-*
24 *ministrative appeal or judicial proceeding to contest*
25 *an order to perform a restructured accounting issued*

1 under subparagraph (B)(i), the limitation period in
2 subsection (b) shall be tolled from the date the lessee
3 or its designee received the order until a final, non-
4 appealable decision is issued in any such proceeding.

5 “(B)(i) The Secretary or the applicable delegated
6 State may issue an order to perform a restructured
7 accounting to a lessee or its designee when the Sec-
8 retary or such delegated State determines during an
9 audit of a lessee or its designee that the lessee or its
10 designee should recalculate royalty due on an obliga-
11 tion based upon the Secretary’s or the delegated
12 State’s finding that the lessee or its designee has made
13 identified underpayments or overpayments which are
14 demonstrated by the Secretary or the delegated State
15 to be based upon repeated, systemic reporting errors
16 for a significant number of leases or a single lease for
17 a significant number of reporting months with the
18 same type of error which constitutes a pattern of vio-
19 lations and which are likely to result in either signifi-
20 cant underpayments or overpayments.

21 “(ii) The power of the Secretary to issue an
22 order to perform a restructured accounting may not
23 be delegated below the most senior career professional
24 position having responsibility for the royalty manage-
25 ment program, which position is currently designated

1 *as the ‘Associate Director for Royalty Management’,*
2 *and may not be delegated to any other person. If a*
3 *State has been delegated authority pursuant to section*
4 *205 of this Act, the State, acting through the highest*
5 *ranking State official having ultimate authority over*
6 *the collection of royalties from leases on Federal lands*
7 *within the State, may issue such order to perform,*
8 *which may not be delegated to any other person. An*
9 *order to perform a restructured accounting shall—*

10 *“(I) be issued within a reasonable period of*
11 *time from when the audit identifies the systemic,*
12 *reporting errors;*

13 *“(II) specify the reasons and factual bases*
14 *for such order;*

15 *“(III) be specifically identified as an ‘order*
16 *to perform a restructured accounting’;*

17 *“(IV) provide the lessee or its designee a*
18 *reasonable period of time (but not less than 60*
19 *days) within which to perform the restructured*
20 *accounting; and*

21 *“(V) provide the lessee or its designee 60*
22 *days within which to file an administrative ap-*
23 *peal of the order to perform a restructured ac-*
24 *counting.*

1 “(C) *An order to perform a restructured account-*
2 *ing shall not mean or be construed to include any*
3 *other communication or action by or on behalf of the*
4 *Secretary or a delegated State.*

5 “(D) *If a lessee or its designee fails to substan-*
6 *tially comply with the requirement to perform a re-*
7 *structured accounting pursuant to this subsection, a*
8 *notice shall be issued to the lessee or its designee that*
9 *the lessee or its designee has not substantially com-*
10 *plied with the requirements to perform a restructured*
11 *accounting. A lessee or its designee shall be given a*
12 *reasonable time within which to perform the restruc-*
13 *tured accounting. Such notice may be issued under*
14 *this section only by an Assistant Secretary of the In-*
15 *terior or an acting Assistant Secretary of the Interior*
16 *who is a schedule C employee (as defined by section*
17 *213.3301 of title 5, Code of Federal Regulations) and*
18 *may not be delegated to any other person. If a State*
19 *has been delegated authority pursuant to section 205,*
20 *the State, acting through the highest elected State offi-*
21 *cial having ultimate authority over the collection of*
22 *royalties from leases on Federal lands within the*
23 *State, may issue such notice, which may not be dele-*
24 *gated to any other person.*

1 “(e) *TERMINATION OF LIMITATIONS PERIOD.*—An ac-
 2 tion or an enforcement of an obligation by the Secretary
 3 or delegated State or a lessee or its designee shall be barred
 4 under this section prior to the running of the seven-year
 5 period provided in subsection (b) in the event—

6 “(1) the Secretary or a delegated State has noti-
 7 fied the lessee or its designee in writing that a time
 8 period is closed to further audit; or

9 “(2) the Secretary or a delegated State and a les-
 10 see or its designee have so agreed in writing.

11 For purposes of this subsection, notice to, or an agreement
 12 by, the designee shall be binding on any lessee who is liable
 13 pursuant to section 102(a) for obligations that are the sub-
 14 ject of the notice or agreement.

15 “(f) *RECORDS REQUIRED FOR DETERMINING COLLEC-*
 16 *TIONS.*—Records required pursuant to section 103 of this
 17 Act by the Secretary or any delegated State for the purpose
 18 of determining obligations due and compliance with any
 19 applicable mineral leasing law, lease provision, regulation
 20 or order with respect to oil and gas leases from Federal
 21 lands or the Outer Continental Shelf shall be maintained
 22 for the same period of time during which a judicial proceed-
 23 ing or demand may be commenced under subsection (b).
 24 If a judicial proceeding or demand is timely commenced,
 25 the record holder shall maintain such records until the final

1 nonappealable decision in such judicial proceeding is made,
2 or with respect to that demand is rendered, unless the Sec-
3 retary or the applicable delegated State authorizes in writ-
4 ing an earlier release of the requirement to maintain such
5 records. Notwithstanding anything herein to the contrary,
6 under no circumstance shall a record holder be required to
7 maintain or produce any record relating to an obligation
8 for any time period which is barred by the applicable limi-
9 tation in this section. In connection with any hearing, ad-
10 ministrative proceeding, inquiry, investigation, or audit by
11 the Secretary or a delegated State under this Act, the Sec-
12 retary or the delegated State shall minimize the submission
13 of multiple or redundant information and make a good
14 faith effort to locate records previously submitted by a lessee
15 or a designee to the Secretary or the delegated State, prior
16 to requiring the lessee or the designee to provide such
17 records.

18 “(g) *TIMELY COLLECTIONS.*—In order to most effec-
19 tively utilize resources available to the Secretary to maxi-
20 mize the collection of oil and gas receipts from lease obliga-
21 tions to the Treasury within the seven-year period of limita-
22 tions, and consequently to maximize the State share of such
23 receipts, the Secretary may not perform or require account-
24 ing, reporting, or audit activities if the Secretary and the
25 State concerned determines that the cost of conducting or

1 *requiring the activity exceeds the expected amount to be col-*
 2 *lected by the activity, based on the most current 12 months*
 3 *of activity. This subsection shall not provide a defense to*
 4 *a demand or an order to perform a restructured accounting.*
 5 *To the maximum extent possible, the Secretary and dele-*
 6 *gated States shall reduce costs to the United States Treas-*
 7 *ury and the States by discontinuing requirements for un-*
 8 *necessary or duplicative data and other information, such*
 9 *as separate allowances and payor information, relating to*
 10 *obligations due. If the Secretary and the State concerned*
 11 *determine that collection will result sooner, the Secretary*
 12 *or the applicable delegated State may waive or forego inter-*
 13 *est in whole or in part.*

14 “(h) *APPEALS AND FINAL AGENCY ACTION.*—

15 “(1) *33-MONTH PERIOD.*—*Demands or orders is-*
 16 *sued by the Secretary or a delegated State are subject*
 17 *to administrative appeal in accordance with the regu-*
 18 *lations of the Secretary. The Secretary shall issue a*
 19 *final decision in any administrative proceeding, in-*
 20 *cluding any administrative proceedings pending on*
 21 *the date of enactment of this section, within 33*
 22 *months from the date such proceeding was commenced*
 23 *or 33 months from the date of such enactment, which-*
 24 *ever is later. The 33-month period may be extended*

1 *by any period of time agreed upon in writing by the*
 2 *Secretary and the appellant.*

3 “(2) *EFFECT OF FAILURE TO ISSUE DECISION.—*
 4 *If no such decision has been issued by the Secretary*
 5 *within the 33-month period referred to in paragraph*
 6 *(1)—*

7 “(A) *the Secretary shall be deemed to have*
 8 *issued and granted a decision in favor of the ap-*
 9 *pellant as to any nonmonetary obligation and*
 10 *any monetary obligation the principal amount*
 11 *of which is less than \$10,000; and*

12 “(B) *the Secretary shall be deemed to have*
 13 *issued a final decision in favor of the Secretary,*
 14 *which decision shall be deemed to affirm those is-*
 15 *ssues for which the agency rendered a decision*
 16 *prior to the end of such period, as to any mone-*
 17 *tary obligation the principal amount of which is*
 18 *\$10,000 or more, and the appellant shall have a*
 19 *right to judicial review of such deemed final de-*
 20 *cision in accordance with title 5 of the United*
 21 *States Code.*

22 “(i) *COLLECTIONS OF DISPUTED AMOUNTS DUE.—To*
 23 *expedite collections relating to disputed obligations due*
 24 *within the seven-year period beginning on the date the obli-*
 25 *gation became due, the parties shall hold not less than one*

1 *settlement consultation and the Secretary and the State*
 2 *concerned may take such action as is appropriate to com-*
 3 *promise and settle a disputed obligation, including waiving*
 4 *or reducing interest and allowing offsetting of obligations*
 5 *among leases.*

6 “(j) *ENFORCEMENT OF A CLAIM FOR JUDICIAL RE-*
 7 *VIEW.—In the event a demand subject to this section is*
 8 *properly and timely commenced, the obligation which is the*
 9 *subject of the demand may be enforced beyond the seven-*
 10 *year limitations period without being barred by this statute*
 11 *of limitations. In the event a demand subject to this section*
 12 *is properly and timely commenced, a judicial proceeding*
 13 *challenging the final agency action with respect to such de-*
 14 *mand shall be deemed timely so long as such judicial pro-*
 15 *ceeding is commenced within 180 days from receipt of no-*
 16 *tice by the lessee or its designee of the final agency action.*

17 “(k) *IMPLEMENTATION OF FINAL DECISION.—In the*
 18 *event a judicial proceeding or demand subject to this section*
 19 *is timely commenced and thereafter the limitation period*
 20 *in this section lapses during the pendency of such proceed-*
 21 *ing, any party to such proceeding shall not be barred from*
 22 *taking such action as is required or necessary to implement*
 23 *a final unappealable judicial or administrative decision,*
 24 *including any action required or necessary to implement*

1 *such decision by the recovery or recoupment of an under-*
 2 *payment or overpayment by means of refund or credit.*

3 “(l) *STAY OF PAYMENT OBLIGATION PENDING RE-*
 4 *VIEW.—Any person ordered by the Secretary or a delegated*
 5 *State to pay any obligation (other than an assessment)*
 6 *shall be entitled to a stay of such payment without bond*
 7 *or other surety instrument pending an administrative or*
 8 *judicial proceeding if the person periodically demonstrates*
 9 *to the satisfaction of the Secretary that such person is fi-*
 10 *nancially solvent or otherwise able to pay the obligation.*
 11 *In the event the person is not able to so demonstrate, the*
 12 *Secretary may require a bond or other surety instrument*
 13 *satisfactory to cover the obligation. Any person ordered by*
 14 *the Secretary or a delegated State to pay an assessment*
 15 *shall be entitled to a stay without bond or other surety in-*
 16 *strument.”.*

17 (b) *CLERICAL AMENDMENT.—The table of contents in*
 18 *section 1 of the Federal Oil and Gas Royalty Management*
 19 *Act of 1982 (30 U.S.C. 1701) is amended by inserting after*
 20 *the item relating to section 114 the following new item:*

“Sec. 115. *Secretarial and delegated States’ actions and limitation periods.*”.

21 **SEC. 5. ADJUSTMENT AND REFUNDS.**

22 (a) *IN GENERAL.—The Federal Oil and Gas Royalty*
 23 *Management Act of 1982 (30 U.S.C. 1701 et seq.) is amend-*
 24 *ed by inserting after section 111 the following:*

1 **“SEC. 111A. ADJUSTMENTS AND REFUNDS.**

2 (a) *ADJUSTMENTS.—*

3 “(1) *If, during the adjustment period, a lessee or*
4 *its designee determines that an adjustment or refund*
5 *request is necessary to correct an underpayment or*
6 *overpayment of an obligation, the lessee or its des-*
7 *ignee shall make such adjustment or request a refund*
8 *within a reasonable period of time and only during*
9 *the adjustment period. The filing of a royalty report*
10 *which reflects the underpayment or overpayment of*
11 *an obligation shall constitute prior written notice to*
12 *the Secretary or the applicable delegated State of an*
13 *adjustment.*

14 “(2)(A) *For any adjustment, the lessee or its des-*
15 *ignee shall calculate and report the interest due at-*
16 *tributable to such adjustment at the same time the les-*
17 *see or its designee adjusts the principal amount of the*
18 *subject obligation, except as provided by subpara-*
19 *graph (B).*

20 “(B) *In the case of a lessee or its designee who*
21 *determines that subparagraph (A) would impose a*
22 *hardship, the Secretary or such delegated State shall*
23 *calculate the interest due and notify the lessee or its*
24 *designee within a reasonable time of the amount of*
25 *interest due, unless such lessee or its designee elects to*

1 *calculate and report interest in accordance with sub-*
 2 *paragraph (A).*

3 “(3) *An adjustment or a request for a refund for*
 4 *an obligation may be made after the adjustment pe-*
 5 *riod only upon written notice to and approval by the*
 6 *Secretary or the applicable delegated State, as appro-*
 7 *priate, during an audit of the period which includes*
 8 *the production month for which the adjustment is*
 9 *being made. If an overpayment is identified during*
 10 *an audit, then the Secretary or the applicable dele-*
 11 *gated State, as appropriate, shall allow a credit or re-*
 12 *fund in the amount of the overpayment.*

13 “(4) *For purposes of this section, the adjustment*
 14 *period for any obligation shall be the six-year period*
 15 *following the date on which an obligation became due.*
 16 *The adjustment period shall be suspended, tolled, ex-*
 17 *tended, enlarged, or terminated by the same actions*
 18 *as the limitation period in section 115.*

19 “(b) *REFUNDS.—*

20 “(1) *IN GENERAL.—A request for refund is suffi-*
 21 *cient if it—*

22 “(A) *is made in writing to the Secretary*
 23 *and, for purposes of section 115, is specifically*
 24 *identified as a demand;*

1 “(B) identifies the person entitled to such
2 refund;

3 “(C) provides the Secretary information
4 that reasonably enables the Secretary to identify
5 the overpayment for which such refund is sought;
6 and

7 “(D) provides the reasons why the payment
8 was an overpayment.

9 “(2) *PAYMENT BY SECRETARY OF THE TREAS-*
10 *URY.—The Secretary shall certify the amount of the*
11 *refund to be paid under paragraph (1) to the Sec-*
12 *retary of the Treasury who shall make such refund.*
13 *Such refund shall be paid from amounts received as*
14 *current receipts from sales, bonuses, royalties (includ-*
15 *ing interest charges collected under this section) and*
16 *rentals of the public lands and the Outer Continental*
17 *Shelf under the provisions of the Mineral Leasing Act*
18 *and the Outer Continental Shelf Lands Act, which are*
19 *not payable to a State or the Reclamation Fund. The*
20 *portion of any such refund attributable to any*
21 *amounts previously disbursed to a State, the Rec-*
22 *lamation Fund, or any recipient prescribed by law*
23 *shall be deducted from the next disbursements to that*
24 *recipient made under the applicable law. Such*
25 *amounts deducted from subsequent disbursements*

1 *shall be credited to miscellaneous receipts in the*
 2 *Treasury.*

3 “(3) *PAYMENT PERIOD.*—*A refund under this*
 4 *subsection shall be paid or denied (with an expla-*
 5 *nation of the reasons for the denial) within 120 days*
 6 *of the date on which the request for refund is received*
 7 *by the Secretary. Such refund shall be subject to later*
 8 *audit by the Secretary or the applicable delegated*
 9 *State and subject to the provisions of this Act.*

10 “(4) *PROHIBITION AGAINST REDUCTION OF RE-*
 11 *FUNDS OR CREDITS.*—*In no event shall the Secretary*
 12 *or any delegated State directly or indirectly claim or*
 13 *offset any amount or amounts against, or reduce any*
 14 *refund or credit (or interest accrued thereon) by the*
 15 *amount of any obligation the enforcement of which is*
 16 *barred by section 115 of this Act.”.*

17 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
 18 *section 1 of the Federal Oil and Gas Royalty Management*
 19 *Act of 1982 (30 U.S.C. 1701) is amended by inserting after*
 20 *the item relating to section 111 the following new item:*

“Sec. 111A. Adjustments and refunds.”.

21 **SEC. 6. ROYALTY TERMS AND CONDITIONS, INTEREST, AND**
 22 **PENALTIES.**

23 (a) *LESSEE OR DESIGNEE INTEREST.*—*Section 111 of*
 24 *the Federal Oil and Gas Royalty Management Act of 1982*

1 *(30 U.S.C. 1721) is amended by adding after subsection (g)*
2 *the following:*

3 *“(h) Interest shall be allowed and paid or credited on*
4 *any overpayment, with such interest to accrue from the date*
5 *such overpayment was made, at the rate obtained by apply-*
6 *ing the provisions of subparagraphs (A) and (B) of section*
7 *6621(a)(1) of the Internal Revenue Code of 1986, but deter-*
8 *mined without regard to the sentence following subpara-*
9 *graph (B) of section 6621(a)(1). Interest which has accrued*
10 *on an overpayment may be applied to reduce an underpay-*
11 *ment (including any interest thereon). This subsection ap-*
12 *plies to overpayments made later than six months after the*
13 *date of enactment of this subsection or September 1, 1996,*
14 *whichever is later. Such interest shall be paid from amounts*
15 *received as current receipts from sales, bonuses, royalties*
16 *(including interest charges collected under this section) and*
17 *rentals of the public lands and the Outer Continental Shelf*
18 *under the provisions of the Mineral Leasing Act, and the*
19 *Outer Continental Shelf Lands Act, which are not payable*
20 *to a State or the Reclamation Fund. The portion of any*
21 *such interest payment attributable to any amounts pre-*
22 *viously disbursed to a State, the Reclamation Fund, or any*
23 *other recipient designated by law shall be deducted from*
24 *the next disbursements to that recipient made under the ap-*
25 *plicable law. Such amounts deducted from subsequent dis-*

1 *bursements shall be credited to miscellaneous receipts in the*
 2 *Treasury.”.*

3 (b) *LIMITATION ON INTEREST.*—Section 111 of the
 4 *Federal Oil and Gas Royalty Management Act of 1982, as*
 5 *amended by subsection (a), is further amended by adding*
 6 *at the end the following:*

7 “(i) Upon a determination by the Secretary that an
 8 excessive overpayment (based upon all obligations of a lessee
 9 or its designee for a given reporting month) was made for
 10 the sole purpose of receiving interest, interest shall not be
 11 paid on the excessive amount of such overpayment. For pur-
 12 poses of this Act, an ‘excessive overpayment’ shall be the
 13 amount that any overpayment a lessee or its designee pays
 14 for a given reporting month (excluding payments for de-
 15 mands for obligations determined to be due as a result of
 16 judicial or administrative proceedings or agreed to be paid
 17 pursuant to settlement agreements) for the aggregate of all
 18 of its Federal leases exceeds 10 percent of the total royalties
 19 paid that month for those leases.”.

20 (c) *ESTIMATED PAYMENT.*—Section 111 of the Federal
 21 *Oil and Gas Royalty Management Act of 1982 (30 U.S.C.*
 22 *1721), as amended by subsections (a) and (b), is further*
 23 *amended by adding at the end the following:*

24 “(j) A lessee or its designee may make a payment for
 25 the approximate amount of royalties (hereinafter in this

1 subsection ‘estimated payment’) that would otherwise be due
 2 for such lease by the date royalties are due for that lease.
 3 When an estimated payment is made, actual royalties are
 4 payable at the end of the month following the month in
 5 which the estimated payment is made. If the estimated pay-
 6 ment was less than the amount of actual royalties due, in-
 7 terest is owed on the underpaid amount. If the estimated
 8 payment exceeds the actual royalties due, interest is owed
 9 on the overpayment. If the lessee or its designee makes a
 10 payment for such actual royalties, the lessee or its designee
 11 may apply the estimated payment to future royalties. Any
 12 estimated payment may be adjusted, recouped, or reinstated
 13 at any time by the lessee or its designee.”.

14 (d) VOLUME ALLOCATION OF OIL AND GAS PRODUC-
 15 TION.—Section 111 of the Federal Oil and Gas Royalty
 16 Management Act of 1982 (30 U.S.C. 1721), as amended by
 17 subsections (a) through (c), is amended by adding at the
 18 end the following:

19 “(k)(1) Except as otherwise provided by this sub-
 20 section—

21 “(A) a lessee (or its designee) of a lease in a unit
 22 or communitization agreement which contains only
 23 Federal leases with the same royalty rate and funds
 24 distribution shall report and pay royalties on oil and
 25 gas production for each production month based on

1 *the actual volume of production sold by or on behalf*
2 *of that lessee;*

3 “(B) a lessee (or its designee) of a lease in any
4 *other unit or communitization agreement shall report*
5 *and pay royalties on oil and gas production for each*
6 *production month based on the volume of oil and gas*
7 *produced from such agreement and allocated to the*
8 *lease in accordance with the terms of the agreement;*
9 *and*

10 “(C) a lessee (or its designee) of a lease that is
11 *not contained in a unit or communitization agree-*
12 *ment shall report and pay royalties on oil and gas*
13 *production for each production month based on the*
14 *actual volume of production sold by or on behalf of*
15 *that lessee.*

16 “(2) *This subsection applies only to requirements for*
17 *reporting and paying royalties. Nothing in this subsection*
18 *is intended to alter a lessee’s liability for royalties on oil*
19 *or gas production based on the share of production allocated*
20 *to the lease in accordance with the terms of the lease, a*
21 *unit or communitization agreement, or any other agree-*
22 *ment.*

23 “(3) *For any unit or communitization agreement, if*
24 *all lessees contractually agree to an alternative method of*
25 *royalty reporting and payment, the lessees may submit such*

1 *alternative method to the Secretary or the delegated State*
2 *for approval and make payments in accordance with such*
3 *approved alternative method so long as such alternative*
4 *method does not reduce the amount of the royalty obliga-*
5 *tion.*

6 “(4) *The Secretary or the delegated State shall grant*
7 *an exception from the reporting and payment requirements*
8 *for marginal properties by allowing for any calendar year*
9 *or portion thereof royalties to be paid each month based*
10 *on the volume of production sold. Interest shall not accrue*
11 *on the difference for the entire calendar year or portion*
12 *thereof between the amount of oil and gas actually sold and*
13 *the share of production allocated to the lease until the begin-*
14 *ning of the month following such calendar year or portion*
15 *thereof. Any additional royalties due or overpaid royalties*
16 *and associated interest shall be paid, refunded, or credited*
17 *within six months after the end of each calendar year in*
18 *which royalties are paid based on volumes of production*
19 *sold. For the purpose of this subsection, the term ‘marginal*
20 *property’ means a lease that produces on average the com-*
21 *bined equivalent of less than 15 barrels of oil per well per*
22 *day or 90 thousand cubic feet of gas per well per day, or*
23 *a combination thereof, determined by dividing the average*
24 *daily production of crude oil and natural gas from produc-*
25 *ing wells on such lease by the number of such wells, unless*

1 *the Secretary, together with the State concerned, determines*
 2 *that a different production is more appropriate.*

3 “(5) *Not later than two years after the date of the en-*
 4 *actment of this subsection, the Secretary shall issue any ap-*
 5 *propriate demand for all outstanding royalty payment dis-*
 6 *putes regarding who is required to report and pay royalties*
 7 *on production from units and communitization agreements*
 8 *outstanding on the date of the enactment of this subsection,*
 9 *and collect royalty amounts owed on such production.”.*

10 (e) *PRODUCTION ALLOCATION.*—Section 111 of the
 11 *Federal Oil and Gas Royalty Management Act of 1982 (30*
 12 *U.S.C. 1721), as amended by subsections (a) through (d),*
 13 *is amended by adding at the end the following:*

14 “(l) *The Secretary shall expeditiously issue all deter-*
 15 *minations of allocations of production for units and*
 16 *communitization agreements of a request for determination.*
 17 *If the Secretary or the delegated State fails to issue a deter-*
 18 *mination within a reasonable period, the Secretary shall*
 19 *waive interest due on obligations subject to the determina-*
 20 *tion from the date the request was received until the end*
 21 *of the month following the month in which the determina-*
 22 *tion is made.”.*

23 (f) *NEW ASSESSMENT TO ENCOURAGE PROPER ROY-*
 24 *ALTY PAYMENTS.*—

1 (1) *IN GENERAL.*—*The Federal Oil and Gas*
 2 *Royalty Management Act of 1982 (30 U.S.C. 1721),*
 3 *as amended by section 4(a), is further amended by*
 4 *adding at the end the following:*

5 **“SEC. 116. ASSESSMENTS.**

6 *“Upon the date of enactment of this section, to encour-*
 7 *age proper royalty payment the Secretary or the delegated*
 8 *State shall impose assessments on a person who chronically*
 9 *submits erroneous reports under this Act. Assessments under*
 10 *this Act may only be issued as provided for in this section.”.*

11 (2) *CLERICAL AMENDMENT.*—*The table of con-*
 12 *tents in section 1 of such Act (30 U.S.C. 1701) is*
 13 *amended by adding after the item relating to section*
 14 *115 the following new item:*

“Sec. 116. Assessments.”.

15 (g) *LIABILITY FOR ROYALTY PAYMENTS.*—*Section*
 16 *102(a) of the Federal Oil and Gas Royalty Management*
 17 *Act of 1982 (30 U.S.C. 1712(a)) is amended to read as fol-*
 18 *lows:*

19 “(a) *In order to increase receipts and achieve effective*
 20 *collections of royalty and other payments, a lessee who is*
 21 *required to make any royalty or other payment under a*
 22 *lease or under the mineral leasing laws, shall make such*
 23 *payments in the time and manner as may be specified by*
 24 *the Secretary or the applicable delegated State. A lessee may*
 25 *designate a person to make all or part of the payments due*

1 under a lease on the lessee's behalf and shall notify the Sec-
 2 retary or the applicable delegated State in writing of such
 3 designation, in which event said designated person may,
 4 in its own name, pay, offset or credit monies, make adjust-
 5 ments, request and receive refunds and submit reports with
 6 respect to payments required by the lessee. Notwithstanding
 7 any other provision of this Act to the contrary, a designee
 8 shall not be liable for any payment obligation under the
 9 lease. The person owning operating rights in a lease shall
 10 be primarily liable for its pro rata share of payment obliga-
 11 tions under the lease. If the person owning the legal record
 12 title in a lease is other than the operating rights owner,
 13 the person owning the legal record title shall be secondarily
 14 liable for its pro rata share of such payment obligations
 15 under the lease.”.

16 (h) CLERICAL AMENDMENTS.—(1) The heading of sec-
 17 tion 111 of the Federal Oil and Gas Royalty Management
 18 Act of 1982 (30 U.S.C. 1721) is amended to read as follows:

19 “ROYALTY TERMS AND CONDITIONS, INTEREST, AND
 20 PENALTIES”.

21 (2) The item relating to section 111 in the table of
 22 contents in section 1 of such Act (30 U.S.C. 1701) is amend-
 23 ed to read as follows:

“Sec. 111. Royalty terms and conditions, interest, and penalties.”.

1 **SEC. 7. ALTERNATIVES FOR MARGINAL PROPERTIES.**

2 (a) *IN GENERAL.*—*The Federal Oil and Gas Royalty*
 3 *Management Act of 1982 (30 U.S.C. 1701 et seq.), as*
 4 *amended by section 6 of this Act, is further amended by*
 5 *adding at the end the following:*

6 **“SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.**

7 “(a) *DETERMINATION OF BEST INTERESTS OF STATE*
 8 *CONCERNED AND THE UNITED STATES.*—*The Secretary*
 9 *and the State concerned, acting in the best interests of the*
 10 *United States and the State concerned to promote produc-*
 11 *tion, reduce administrative costs, and increase net receipts*
 12 *to the United States and the States, shall jointly determine,*
 13 *on a case by case basis, the amount of what marginal pro-*
 14 *duction from a lease or leases or well or wells, or parts*
 15 *thereof, shall be subject to a prepayment under subsection*
 16 *(b) or regulatory relief under subsection (c). If the State*
 17 *concerned does not consent, such prepayments or regulatory*
 18 *relief shall not be made available under this section for such*
 19 *marginal production: Provided, That if royalty payments*
 20 *from a lease or leases, or well or wells is not shared with*
 21 *any State, such determination shall be made solely by the*
 22 *Secretary.*

23 “(b) *PREPAYMENT OF ROYALTY.*—

24 “(1) *IN GENERAL.*—*Notwithstanding the provi-*
 25 *sions of any lease to the contrary, for any lease or*
 26 *leases or well or wells identified by the Secretary and*

1 *the State concerned pursuant to subsection (a), the*
2 *Secretary is authorized to accept a prepayment for*
3 *royalties in lieu of monthly royalty payments under*
4 *the lease for the remainder of the lease term if the af-*
5 *fected lessee so agrees. Any prepayment agreed to by*
6 *the Secretary, State concerned and lessee which is less*
7 *than an average \$500 per month in total royalties*
8 *shall be effectuated under this section not earlier than*
9 *two years after the date of enactment of this section*
10 *and, any prepayment which is greater than an aver-*
11 *age \$500 per month in total royalties shall be effec-*
12 *tuated under this section not earlier than three years*
13 *after the date of enactment of this section. The Sec-*
14 *retary and the State concerned may condition their*
15 *acceptance of the prepayment authorized under this*
16 *section on the lessee's agreeing to such terms and con-*
17 *ditions as the Secretary and the State concerned deem*
18 *appropriate and consistent with the purposes of this*
19 *Act. Such terms may—*

20 “(A) provide for prepayment that does not
21 result in a loss of revenue to the United States
22 in present value terms;

23 “(B) include provisions for receiving addi-
24 tional prepayments or royalties for developments
25 in the lease or leases or well or wells that deviate

1 *significantly from the assumptions and facts on*
2 *which the valuation is determined; and*

3 “(C) *require the lessee or its designee to pro-*
4 *vide such periodic production reports as may be*
5 *necessary to allow the Secretary and the State*
6 *concerned to monitor production for the purposes*
7 *of subparagraph (B).*

8 “(2) *STATE SHARE.—A prepayment under this*
9 *section shall be shared by the Secretary with any*
10 *State or other recipient to the same extent as any*
11 *royalty payment for such lease.*

12 “(3) *SATISFACTION OF OBLIGATION.—Except as*
13 *may be provided in the terms and conditions estab-*
14 *lished by the Secretary under subsection (b), a lessee*
15 *or its designee who makes a prepayment under this*
16 *section shall have satisfied in full the lessee’s obliga-*
17 *tion to pay royalty on the production stream sold*
18 *from the lease or leases or well or wells.*

19 “(c) *ALTERNATIVE ACCOUNTING AND AUDITING RE-*
20 *QUIREMENTS.—Within one year after the date of the enact-*
21 *ment of this section, the Secretary or the delegated State*
22 *shall provide accounting, reporting, and auditing relief that*
23 *will encourage lessees to continue to produce and develop*
24 *properties subject to subsection (a): Provided, That such re-*
25 *lief will only be available to lessees in a State that concurs,*

1 *which concurrence is not required if royalty from the lease*
 2 *or leases or well or wells is not shared with any State. Prior*
 3 *to granting such relief, the Secretary and, if appropriate,*
 4 *the State concerned shall agree that the type of marginal*
 5 *wells and relief provided under this paragraph is in the*
 6 *best interest of the United States and, if appropriate, the*
 7 *State concerned.”.*

8 (b) *CLERICAL AMENDMENT.—The table of contents in*
 9 *section 1 of such Act (30 U.S.C. 1701) is amended by add-*
 10 *ing after the item relating to section 116 the following new*
 11 *item:*

“Sec. 117. Alternatives for marginal properties.”.

12 **SEC. 8. REPEALS.**

13 (a) *FOGRMA.—With respect to Federal lands, sec-*
 14 *tions 202 and 307 of the Federal Oil and Gas Royalty Man-*
 15 *agement Act of 1982 (30 U.S.C. 1732 and 1755), are no*
 16 *longer applicable. Such inapplicability shall not affect co-*
 17 *operative agreements involving Indian tribes or Indian*
 18 *lands.*

19 (b) *OCSLA.—Effective on the date of the enactment*
 20 *of this Act, section 10 of the Outer Continental Shelf Lands*
 21 *Act (43 U.S.C. 1339) is repealed.*

22 **SEC. 9. INDIAN LANDS.**

23 *The amendments and repeals made by this Act shall*
 24 *not apply with respect to Indian lands, and the provisions*
 25 *of the Federal Oil and Gas Royalty Management Act of*

1 1982 as in effect on the day before the date of enactment
2 of this Act shall continue to apply after such date with re-
3 spect to Indian lands.

4 **SEC. 10. PRIVATE LANDS.**

5 *This Act shall not apply to any privately owned min-*
6 *erals.*

7 **SEC. 11. EFFECTIVE DATE.**

8 *Except as provided by section 115(f), section 111(h),*
9 *section 111(k)(5), and section 117 of the Federal Oil and*
10 *Gas Royalty Management Act of 1982 (as added by this*
11 *Act), this Act, and the amendments made by this Act, shall*
12 *apply with respect to the production of oil and gas after*
13 *the first day of the month following the date of the enact-*
14 *ment of this Act.*